

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Applications Filed For The Transfer of Control of)	WC Docket No. 10-41
Hawaiian Telcom, Inc. and Hawaiian Telcom)	DA 10-409
Services Company, Inc., Debtors-in-Possession)	

COMMENTS IN OPPOSITION OF TIME WARNER CABLE

Time Warner Cable (“TWC”), by its attorneys, hereby submits these Comments In Opposition to Hawaiian Telcom Inc.’s (“HT”) Application for authority to assign its Section 214 authorizations to Hawaiian Telcom Services Company, Inc. (“HT Services”) as the former emerges from Chapter 11 bankruptcy.^{[1/](#)}

TWC respectfully submits that granting the Application would not serve the public interest because HT has consistently failed to comply with its statutory obligations under Section 224 of the Communications Act to provide access to the poles, conduits, and rights-of-way that it controls in a reasonable and nondiscriminatory basis. Specifically, over the past several years, HT has consistently engaged in tactics designed to slow the expansion and enhancement of TWC’s cable system, affecting the ability of TWC to provide broadband connectivity and advanced services in furtherance of the goals of the Communications Act.

For instance, HT has abused its ownership and control of poles and conduits by:

^{[1/](#)} See *Applications Filed for the Transfer of Control of Hawaiian Telcom, Inc. and Hawaiian Telcom Services Company, Inc., Debtors-in-Possession*, Public Notice, WC Docket No. 10-41, DA 10-409 (WC Bur. rel. March 10, 2010) (the “Public Notice”); *Hawaiian Telcom Services Company, Inc., Debtor-in-Possession, Applications for Authority Pursuant to Sections 214 of the Communications Act of 1934, as Amended, for Assignment or Transfer of Control*, WC Docket No. 10-41 (submitted Jan. 25, 2010).

- Refusing to allow TWC to overlash fiber to its existing attachments upon reasonable notice as required by FCC standards and the agreement between the parties, *see In re Amendment of Commission's Rules and Policies Governing Pole Attachments*, Consolidated Partial Order on Reconsideration, 16 FCC Rcd 12103, 12144-45, ¶ 82 (2001);
- Imposing unjust, unreasonable and discriminatory pole and conduit application procedures and charges;^{2/}
- Denying TWC permit applications for “reasons” other than safety and generally accepted engineering purposes, *see* 47 C.F.R. § 1.1403(a);
- Refusing to act on permit pole and conduit access requests within the 45-day deadline specified by Commission rules, *see id.* § 1.1403(b); and
- Imposing unjust, unreasonable and discriminatory pole and conduit access engineering and construction standards and costs, *see, e.g., Knology, Inc. v. Ga. Power Co.*, Memorandum Opinion & Order, 18 FCC Rcd 24615, 24634 (2003); *Cavalier Tel. v. Va. Elec. & Power Co.*, Order & Request for Information, 15 FCC Rcd 9563, 9578-79 (2000).

Meanwhile, while it continually ignores TWC’s reasonable access requests and gives no indication that it intends to alter this practice, HT itself appears to be proceeding with its own fiber deployment with none of the impediments that it layers upon TWC. As HT’s financial position strengthens, so, too, will its capacity to restrain competitors like TWC by denying access to essential pole and conduit resources.

Such conduct is contrary to the public interest and should not be rewarded by granting the pending Application. Section 224 of the Act clearly provides for competitors to be granted access to essential poles, conduit, and rights of way, and HT’s failure to provide such access frustrates

^{2/} *See, e.g., Knology, Inc. v. Ga. Power Co.*, Memorandum Opinion & Order, 18 FCC Rcd 24615 (2003); *Cavalier Tel. v. Va. Elec. & Power Co.*, Order & Request for Information, 15 FCC Rcd 9563 (2000); *Kansas City Cable Partners d/b/a Time Warner Cable of Kansas City v. Kansas City Power & Light Co.*, Consolidated Order, 14 FCC Rcd 11599 (1999); *Salsgiver Commc’ns, Inc. v. N. Pittsburgh Tel. Co.*, Memorandum Opinion and Order, 22 FCC Rcd 20,536 (2008); *Fiber Techs. Networks, LLC v. N. Pittsburgh Tel. Co.*, Memorandum Opinion and Order, 22 FCC Rcd 3392 (2007); *DQE Commc’ns Network Servs., LLC v. N. Pittsburgh Tel. Co.*, Memorandum Opinion and Order, 22 FCC Rcd 2112 (2007); *Salsgiver Telecom, Inc. v. N. Pittsburgh Tel. Co.*, Memorandum Opinion and Order, 22 FCC Rcd 9285 (2007).

both the public interest and the Act’s goal of fostering competition. Moreover, HT’s behavior is precisely the sort of deployment obstacle that the Commission has vowed to prevent in order to further the nation’s goal of universal access to broadband services, as articulated in the Commission’s National Broadband Plan. *See, e.g.,* FED. COMM’NS COMM’N, NATIONAL BROADBAND PLAN 127 (2010) (“FCC Broadband Plan”) (“[G]overnment should take steps to improve utilization of existing infrastructure to ensure that network providers have easier access to poles, conduits, ducts and rights-of-way.”).

TWC is Hawaii’s principal cable operator, providing a host of residential and commercial voice, video and Internet access services across the state—both on Oahu and on the neighboring islands. TWC’s service area ranges from the dense, concrete-hardened urban areas, such as the residential dwellings and hotels in Waikiki in Honolulu (Oahu), to the predominantly agricultural areas of the neighboring islands.

For its part, HT is the “incumbent local exchange carrier in Hawaii and provides service to 470,024 access lines on all of Hawaii’s major islands.”^{3/} As an incumbent LEC, HT is “a ‘utility’ within the meaning of section 224(a)(1) of the Act” and is obligated to “provide ‘a cable television system or any telecommunications carrier’ with ‘nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by it.’”^{4/} Absent this obligation, HT could abuse its “control of the enumerated facilities and property to impede . . . the installation and maintenance of telecommunications and cable equipment by those seeking to compete in those fields.”^{5/}

^{3/} Public Notice at 1.

^{4/} *Salsgiver Telecom, Inc. v. North Pittsburgh Tel. Co.*, Memorandum Opinion and Order, File No. EB-06-MD-002, DA 07-2150, ¶ 3 (Enforcement Bur. rel. May 24, 2007) (“*Salsgiver Telecom Order*”) (citing and quoting 47 U.S.C. § 224(f)(1)).

^{5/} *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd 15499, ¶ 1123 (1996), *subsequent history omitted*.

Accordingly, HT owns and controls access to the overwhelming majority of poles and underground conduit facilities across Hawaii. Today TWC's facilities are attached to more than 100,000 of these poles and located within hundreds of miles of this conduit plant across the state. For the past several years and, in particular, within the past several months, TWC has focused on expanding both the reach of its network and the breadth of the services it offers by accessing additional poles and conduit and supplementing the existing facilities that are already installed in HT support structures. HT's failure to provide TWC with reasonable access to these facilities under both FCC rules and the terms of its long-standing operating agreements has prevented TWC from completing its planned expansions. Moreover, despite repeated efforts by TWC to resolve these problems amicably,^{6/} this conduct has only worsened since HT received federal bankruptcy court approval of its reorganization plan in December 2009.^{7/} This is no coincidence.

Under the terms of HT's bankruptcy plan, HT's primary if not sole business objective is to provide fiber-based communications services, including video services.^{8/} While this in itself advances the cause of competition, any benefit of having any additional competitor clearly would be undermined where, as here, that competitor stifles competition by abusing the pole, conduit and

^{6/} After months of progressively restrictive and unreasonable denials and numerous informal efforts at the operational level to resolve this dispute, this matter was escalated to counsel on March 4, 2010. See Letter from J. D. Thomas, Hogan & Hartson LLP, to John Komeiji, Hawaiian Telcom (Mar. 4, 2010) (attached as Ex. 1). To date, TWC has received neither a written response to its letter or even an invitation to meet.

^{7/} See Order Confirming the Joint Chapter 11 Plan of Reorganization of Hawaiian Telcom Communications, Inc. and Its Debtor Affiliates, *In re Hawaiian Telcom Commc'ns, Inc., et al., Debtors and Debtors in Possession*, Ch. 11 Case No. 08-02005 (Bankr. D. Haw., Dec. 30, 2009), *available at* <http://www.kccllc.net/documents/0802005/0802005091231000000000002.pdf>.

^{8/} See, e.g., Jay Fidell, *Revamped Hawaiian Tel Betting on BAIO to Survive*, Honolulu Advertiser, Feb. 21, 2010, <http://www.honoluluadvertiser.com/apps/pbcs.dll/article?AID=20102210331>; see also Letter from John T. Komeiji, Hawaiian Telcom, to Clyde Sonobe, Cable Television Administrator, Hawaii Dep't of Commerce & Consumer Affairs (Dec. 7, 2009) (attached as Ex. 2) ("[W]e are proceeding with expending significant operating and capital funds for our next generation television service.").

right-of-way resources that it controls. Indeed, HT's actions here are reminiscent of an earlier chapter in the company's history when, in 1994, HT announced its plan to begin competing directly with TWC by providing video services, and within days, imposed dramatic pole and conduit rental increases.^{9/} Since the 1995 settlement of that proceeding, however, the Commission time and again has been confronted with pole owners that have attempted to leverage their ownership and control of poles and conduits to hinder competition by slowing or preventing the deployment of fiber. And time and again the Commission has responded resoundingly against this type of anticompetitive conduct by pole owners.^{10/}

At a time when the Commission has placed broadband deployment as a top national priority and recognized the critical role that expeditious access to essential infrastructure such as poles, conduits, and rights of way plays in achieving that goal, HT's conduct should not be sanctioned.^{11/} Accordingly, TWC opposes approval of the proposed transaction and Application unless and until HT demonstrates that its unreasonable practices have been remedied. Specifically,

^{9/} See *Time Warner Cable d/b/a/ Oceanic Cable v. GTE Hawaiian Tel. Co. Inc.*, P.A. No. 95-005 (filed Nov. 30, 1994).

^{10/} See *In the Matter of Heritage Cablevision Associates of Dallas, L.P., & Tex. Cable TV Ass'n, Inc. v. Tex. Utilities Elec. Co.*, Memorandum Opinion & Order, 6 FCC Rcd 7099 (1991); *Multimedia Cablevision, Inc. v. Southwestern Bell Tel. Co.*, 11 FCC Rcd. 11202 (1996); *Cavalier Tel. v. Va. Elec. & Power Co.*, Order & Request for Information, 15 FCC Rcd 9563 (2000); *DQE Commc'ns Network Servs., LLC v. North Pittsburgh Tel. Co.*, Memorandum Opinion and Order, 22 FCC Rcd 2112 (2007); *Salsgiver Telecom, Inc. v. North Pittsburgh Tel. Co.*, Memorandum Opinion and Order, 22 FCC Rcd 9285 (2007); See *Salsgiver Commc'ns, Inc. v. North Pittsburgh Tel.*, Memorandum Opinion and Order, 22 FCC Rcd. 20536 (2007) (Complaint filed Mar. 20, 2006); *Kansas City Cable Partners d/b/a Time Warner Cable of Kansas City v. Kansas City Power & Light Co.*, Consolidated Order, 14 FCC Rcd 11599 (1999).

^{11/} See FCC Broadband Plan at ix ("It's now time to act and invest in our nation's future by bringing the power and promise of broadband to us *all*."). (emphasis added); *id.* at 127 ("Securing rights to this infrastructure is often a difficult and time-consuming process that discourages private investment."); *id.* at 129 ("The FCC should establish a comprehensive timeline for each step of the Section 224 access process . . ."); *id.* at 130 ("[A]warding compensation that dates from the denial of access could stimulate swifter resolution of disputes.").

TWC seeks enforceable commitments that HT grant TWC reasonable access to the poles, conduit, and rights of way that HT controls and that:

1. HT notify TWC within 15 days of any new pole or duct / conduit occupancy request. HT must specifically and in writing state what (if anything) TWC must do to perfect its application and to attach to the pole or conduit (*e.g.*, engineering and make-ready work that would be required);
2. Grant actual physical access to the support structure within 30 days of written application;
3. In the event of failure to affirmatively respond within the time periods specified in Conditions 1 and 2, above, pending applications will be deemed granted;^{[12/](#)}
4. HT allow TWC to overlash fiber to existing facilities upon reasonable notice as required by Commission standards;^{[13/](#)} and
5. Certify that all charges of any kind associated with TWC's access requests are just, reasonable and nondiscriminatory, reflect only HT's actual, direct costs in performing the function, and are no different in any respect that HT charges itself or an affiliate for the same or similar functions.

Absent such assurances, grant of the application will embolden HT to deny competitors like TWC the ability to upgrade their networks to meet the surging demand for fiber-based services that HT seeks to reserve for itself. Reels of fiber are sitting today in TWC yards (with more ready to be shipped to Hawaii from the mainland) waiting to be deployed but for HT's refusal to grant

^{[12/](#)} See *Salsgiver Telecom, Inc. v. N. Pittsburgh Tel. Co.*, Memorandum Opinion and Order, 22 FCC Rcd 9285, 9298, ¶ 28 (2007).

^{[13/](#)} See *In re Amendment of Commission's Rules and Policies Governing Pole Attachments*, Consolidated Partial Order on Reconsideration, 16 FCC Rcd 12103, 12144-45, ¶ 82 (2001).

pole and conduit access to TWC. This is fiber that will be used to support not only video services, but also advanced broadband voice and data services and applications. HT states in its Application that the transfer “will make [HT and HT Services] stronger competitors and able to offer new products and services.”^{14/} Yet it is entirely unclear how improving HT’s own financial position and ability to offer service will foster competition if HT remains in a position to use its ownership and control of poles, conduit, and rights of way to thwart its competitors’ ability to offer service. Rather, grant of the present application will simply permit HT to continue in its ways; it will allow it to continue to prevent its competitors such as TWC from expanding their networks and offering consumers with the competitive broadband and advanced services envisaged by the Act.

Conclusion

For these reasons, the Commission should deny HT’s application unless and until HT comes into compliance with applicable law and the Commission’s long-practiced commitment to ensure just, reasonable and non-discriminatory access to poles, conduits and rights-of-way. To grant the application in the face of access conditions that persistently have violated Commission precedent, and that have continued to deteriorate over the past several months, is not in the public interest. That the Commission has made universal broadband a top priority, and, that TWC stands ready, willing and able to deploy the fiber necessary to make that priority a reality, further compels Commission action on HT’s application consistent with these comments.

Respectfully submitted,
TIME WARNER CABLE

/s/ J. D. Thomas

J. D. Thomas

Hogan & Hartson LLP

555 Thirteenth Street, NW

^{14/} See Application for Consent to Transfer of Control, at 12.

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Its Attorney

March 24, 2010

Exhibit 1

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March 4, 2010

J. D. Thomas
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Via Electronic Mail and FEDEX

John Komeiji, Esq.
General Counsel
Hawaiian Telcom
1177 Bishop Street
Honolulu, Hawaii 96813

Re: Access to Poles, Conduits and Rights-of-Way by Time Warner Cable

Dear Mr. Komeiji:

I write on behalf of Time Warner Cable ("TWC") regarding TWC's unsuccessful efforts to secure access to the poles, conduits and rights-of-way of Hawaiian Telcom ("HT").

To fulfill a number of customer commitments, TWC must expand and enhance its cable system by adding fiber to its facilities that already occupy HT poles and conduit, and by securing access to additional poles and conduits that HT owns or controls. Applicable law fully entitles TWC to take these actions.

However, TWC's efforts, which correspond closely with a growing list of HT pole and conduit-related initiatives (and which, at best, were adopted without sufficient consideration of HT's general obligation to provide just and reasonable access to its poles) have become increasingly futile. Today, HT has created a very significant backlog of overlash requests (referred to as Work Access Requests (or "WARs")), pole attachment requests ("PARs"), and conduit occupancy requests ("CORs"). This backlog, which covers hundreds of poles and thousands of feet of conduit, is long and growing longer.

The HT's current approach to pole and conduit access ignores HT's specific obligations under (1) its express agreements with TWC and (2) FCC precedent, which requires HT to provide timely access for new attachments and to allow TWC to overlash to its existing facilities upon reasonable notice. It also is reminiscent of an earlier HT initiative to use poles and conduits for anti-competitive purposes at exactly the time that the company announced its intention to

compete with TWC by providing “video dial tone” service. *See Time Warner Cable d/b/a/ Oceanic Cable v. GTE Hawaiian Tel. Co. Inc.*, P.A. No. 95-005 (filed Nov. 30, 1994).

For example, HT has attempted to convert overlashing – which is supposed to be a notice-only procedure – into a full-permitting process. In fact, approximately 40 of TWC’s overlashing requests are currently pending and have been pending for an average of *11 months* each. The same is true for approximately 30 pole and conduit occupancy requests, which have been pending for an average of *nine (9)* and *13 months*, respectively. With deadlines for new and ongoing projects fast approaching, TWC will be submitting many more requests in the weeks ahead, and TWC must be assured that HT intends to change its ways immediately.

TWC has attempted to resolve this situation at the operational level. It has tried to expedite requests and negotiate access solutions. TWC has even hired a number of employees whose primary responsibility is to secure access on support structures across the state. Yet TWC has very little to show for its efforts. HT has taken increasingly unreasonable positions with respect to TWC and its efforts to secure access.

In addition to converting overlashing into a full permitting event, HT has stated that TWC will not be permitted to attach to a new pole (or overlash to its existing poles) until TWC has resolved all safety violations on that pole, regardless of whether TWC caused the violation.

Similarly, with respect to overlash requests (WARs), HT has stated that unless TWC can show a paper permit signed by HT (which in many cases could date back 35 years or more when as likely as not authorizations to attach were given orally), the TWC attachment will be deemed unauthorized. But even when TWC is able to produce a paper permit for a pole (or poles) in a given run, the poles for which TWC *cannot* produce a paper permit HT now states will be deemed unauthorized. TWC, thus, has the “choice” of filing permits for the pole (and clearing all safety violations that might have developed on that pole over the years) or removing its facilities.

With respect to TWC’s conduit requests, HT has asserted that no duct capacity is available because it must reserve space for “maintenance” and because other cables in the duct are “too big” to accommodate the installation of new ones. These assertions are not credible. HT has no legal basis for its claim that it may reserve duct for “maintenance.” Further, such a position ignores the realities of modern underground communications design and construction in which (1) large quantities of duct could be made available by removing dead copper; (2) inner-duct (which HT requires others to install as a pre-condition to occupancy) is used to subdivide individual ducts into many different usable chambers; and (3) fiber-optic cables have much smaller diameters than “legacy” communications cables.

HT’s actions and positions violate not only FCC precedent but also long-standing operating terms between HT and TWC. Specifically, under the terms of the 1995 Settlement Agreement between HT and TWC, which resolved the litigation challenging HT’s efforts at the time to

increase the burden of its pole attachments rates, terms and conditions immediately after HT announced its intention to provide video services, TWC is permitted to (a) overlash its facilities upon 10 days' notice to HT, *see* 1995 Settlement Agreement at ¶ 8; and (b) have actual physical access to poles and conduits within 30 days of submitting an application to HT, *see id.* at ¶ 7. If HT has not responded to the application within this 30-day time frame, the application is deemed granted on the 31st day. *See id.*

Moreover, under applicable FCC rules, TWC is entitled to overlash to TWC facilities on poles owned or controlled by HT on "reasonable notice." *See In re Amendment of Commission's Rules and Policies Governing Pole Attachments*, Consolidated Partial Order on Reconsideration, 16 FCC Rcd 12103, 12144-45, ¶ 82 (2001). With respect to new pole and conduit requests, FCC rules require that HT grant or deny a permit application within 45 days of submission. *See* 47 C.F.R. § 1.1403(b). Further, HT may only deny a permit request for reasons of insufficient capacity, safety, reliability and generally accepted engineering practices. *See id.* § 1.1403(a).

The FCC has encountered situations like this in the past and has not hesitated to issue forceful rulings against pole owners seeking to block access to or force unreasonable terms and costs upon communications companies. *See, e.g., Knology, Inc. v. Ga. Power Co.*, Memorandum Opinion & Order, 18 FCC Rcd 24615 (2003); *Cavalier Tel. v. Va. Elec. & Power Co.*, Order & Request for Information, 15 FCC Rcd 9563 (2000); *Kansas City Cable Partners d/b/a Time Warner Cable of Kansas City v. Kansas City Power & Light Co.*, Consolidated Order, 14 FCC Rcd 11599 (1999); *Salsgiver Commc'ns, Inc. v. N. Pittsburgh Tel. Co.*, Memorandum Opinion and Order, 22 FCC Rcd 20,536 (2008); *Fiber Techs. Networks, LLC v. N. Pittsburgh Tel. Co.*, Memorandum Opinion and Order, 22 FCC Rcd 3392 (2007); *DQE Commc'ns Network Servs., LLC v. N. Pittsburgh Tel. Co.*, Memorandum Opinion and Order, 22 FCC Rcd 2112 (2007); *Salsgiver Telecom, Inc. v. N. Pittsburgh Tel. Co.*, Memorandum Opinion and Order, 22 FCC Rcd 9285 (2007). Indeed, echoing the 1995 Settlement Agreement here, the FCC in *Salsgiver Telecom, Inc. v. North Pittsburgh Telephone Company*, concluded that if the incumbent pole owner (a telephone company that was seeking to transfer ownership of its assets and licenses) did not grant access within a specified time period after the adoption of the order, the competitor's access requests would be deemed granted. *See* 22 FCC Rcd at 9298, ¶ 28.

As you are aware, HT and TWC have periodically attempted to negotiate new pole attachment agreements, but none of these attempts has been completed. Thus, in addition to the FCC's pole-attachment rules and regulations (and supporting precedent), the parties' relationship continues to be governed by the terms of the original 1974 pole attachment and conduit occupancy agreements, as modified by the 1995 Settlement Agreement.

We trust that you understand the severity and extreme time sensitivity of this situation and realize that HT's positions with respect to TWC's access requests are extremely problematic. The current situation has become untenable, and TWC has placed resolving this problem among its very highest priorities.

John Komeiji, Esq.
March 4, 2010
Page 4

While we continue to believe that it is possible for TWC and HT to work through these problems informally and would prefer to do so, please understand that if this is to occur it must happen quickly and with HT's full commitment and cooperation. I therefore request that we arrange an immediate in-person meeting between our principals to attempt to resolve these issues amicably. I will contact you within the next day to discuss those arrangements.

Please understand, however, that if we are unable to meet virtually immediately (within the next several business days), TWC will be compelled to pursue all available remedies and that TWC reserves all rights at law and equity in connection with this matter.

Thank you in advance for your consideration. I look forward to working with you.

Sincerely,

A handwritten signature in black ink, appearing to be 'J. D. Thomas', with a stylized, flowing script.

J. D. Thomas

JDT/dg

cc: Norman Santos
Nate Smith
Julie P. Laine, Esq.

Exhibit 2

Hawaiian Telecom

CABLE DIVISION
COMMERCE AND
CONSUMER AFFAIRS

2009 DEC 7 A 11:03

A E P S

FILE

December 7, 2009

Via Facsimile Transmission (586-2625)

Mr. Clyde Sonobe, Administrator
Cable Television Division
Department of Commerce and Consumer Affairs
335 Merchant Street, 1st Floor
Honolulu, Hawaii 96813

Re: In re Application of Hawaiian Telcom Services
Company, Inc. (HTSC) for a Cable Franchise

Dear Mr. Sonobe:

HTSC appreciates the willingness of the Cable Television Division of the Department of Commerce and Consumer Affairs to continue discussions with HTSC with a view to completing the process.

As you are aware, HTSC and certain of its affiliates (the "Debtors") had filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code on December 1, 2008. The Debtors subsequently filed a Plan of Reorganization (the "Plan"), which included HT's next generation television services. On November 13, 2009, at the conclusion of a hearing on the confirmation of the Plan, the Bankruptcy Court orally confirmed the Plan. The Bankruptcy Court has not yet issued its written order confirming the Plan. The Plan, as confirmed, also includes a restructuring of the existing financing arrangements that will significantly reduce the level of debt to which the Debtors are subject and foster the long-term financial health of the Debtors. Now that the Plan has been confirmed by the Bankruptcy Court, HTSC and its sister company, Hawaiian Telcom, Inc., will seek approvals from the Hawaii Public Utilities Commission and Federal Communications Commission that are required as conditions precedent to the Plan becoming effective.

In light of our current situation and our recent discussions regarding our application, we request agreement to an extension of the time limit for final action, from December 31, 2009 to June 30, 2010. As discussed, notwithstanding HTSC's chapter 11 status, we are proceeding with expending significant operating and capital funds for our next generation television service. We look forward to completing this process.

Very truly yours,

Hawaiian Telcom Services Company, Inc.



John T. Komeiji
Senior Vice President and General Counsel